

Assembly Bill No. 115

Passed the Assembly August 27, 2009

Chief Clerk of the Assembly

Passed the Senate August 24, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 131502, 131511, 131520, 131521, and 131540 of, and to add Sections 131532 and 131542 to, the Health and Safety Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 115, Beall. Adult Health Coverage Expansion Program.

Existing law provides for the creation of the Adult Health Coverage Expansion Program as a pilot program in Santa Clara County to be administered by a local initiative in the county, at the option of the local initiative. The program provides health care coverage to eligible employees, as specified, of a small business, as defined, that participates in the program, not to exceed 5,000 employees in the county unless authorized by the Department of Managed Health Care.

This bill would authorize the local initiative to provide similar complementary products, as defined, to provide health care services coverage to the spouses or domestic partners or eligible dependent children of program enrollees.

Existing law defines a small business, for purposes of the pilot program, as an entity located in Santa Clara County that employs 50 or fewer persons, with at least 35% of the employees earning less than 350% of the federal poverty level for a family size of one.

This bill would redefine small business as an entity that employs 50 or fewer persons, with at least 25% of the employees earning less than 350% of the federal poverty level.

Existing law requires, for a small business to be eligible for the program, that at least 50% of the employees be eligible for coverage and that at least 50% of those eligible employees must choose to participate.

This bill would make eligible for the program any business where at least 50% of the eligible employees choose to participate.

Existing law requires the local initiative to establish copayment levels and amounts, as specified.

This bill would delete that requirement.

Existing law requires that the cost of the program be paid through a combination of small business contributions, employee premiums, county, federal, state, and private funding made available for this purpose.

The bill would, instead, require that the cost be paid through a combination of small business contributions, employee premiums, and any additional local funds available for the program. The bill would require that employer complementary products be optional and would provide that no state or federal funds be used to pay for complementary products, and that no General Fund moneys shall be used for purposes of the program or any related complementary products.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) To facilitate the success of the Adult Health Coverage Expansion Program (Division 113 (commencing with Section 131500) of the Health and Safety Code, enacted by Chapter 677 of the Statutes of 2007), it would be appropriate to provide health care coverage products, in addition to those authorized in the program, to cover spouses, domestic partners, and eligible children of program enrollees.

(b) It is, therefore, the intent of the Legislature in enacting this act to authorize the creation of a complementary product to be offered in conjunction with the program, but as a separate product.

(c) It is also the intent of the Legislature that any exemptions from current law stated in Division 113 (commencing with Section 131500) of the Health and Safety Code shall only apply to the program and products authorized by that division.

SEC. 2. Section 131502 of the Health and Safety Code is amended to read:

131502. The following definitions apply for purposes of this division:

(a) “Complementary product” means a health care coverage plan offered by the local initiative that provides coverage for a spouse, domestic partner, or eligible dependent children of a program enrollee.

(b) “Local initiative” has the same meaning as set forth in Section 12693.08 of the Insurance Code.

(c) “Program” means the Adult Health Coverage Expansion Program.

(d) “Small business” means an entity located in Santa Clara County that employs 50 or fewer persons, with at least 25 percent of the employees earning less than 350 percent of the federal poverty level, and that has not offered health care coverage to its employees for, at minimum, 12 consecutive months, provided that the provisions of any such prior coverage required the employer to contribute at least 50 percent of the total amount of the premium for that coverage. For purposes of the program authorized by this division, a small business shall be a “small employer” pursuant to Article 3.1 (commencing with Section 1357) of Chapter 2.2 of Division 2, subject to the provisions and exceptions of this division. Notwithstanding the company affiliation and tax filing provision of paragraph (1) of subdivision (l) of Section 1357, an individual franchise outlet shall be considered a small business.

SEC. 3. Section 131511 of the Health and Safety Code is amended to read:

131511. (a) In implementing the pilot program established pursuant to this division, the local initiative in Santa Clara County and any complementary product offered, and only this local initiative and complementary product, shall not be subject to the requirements of subdivision (a) of Section 1357.03. The program and any complementary product offered shall be otherwise subject to the requirements of Chapter 2.2 (commencing with Section 1340) of Division 2, including Article 3.1 (commencing with Section 1357) thereof, except as otherwise provided in this division, and shall be subject to approval as to regulatory filings with the Department of Managed Health Care as prescribed in Chapter 2.2 (commencing with Section 1340) of Division 2 and in implementing regulations promulgated by the department.

(b) Except in the case of a late enrollee or for satisfaction of a preexisting condition clause in the case of initial coverage for an eligible employee or eligible dependent, the local initiative may not exclude an eligible employee or eligible dependent who would otherwise be eligible for health care coverage under this division on the basis of an actual or expected health care condition. The local initiative shall not limit or exclude coverage for an eligible

employee or eligible dependent by type of illness, treatment, medical condition, or accident, except for preexisting conditions as permitted under Section 1357.06.

(c) Coverage provided through the program, or through a complementary product, to an eligible small business shall be renewable with respect to all eligible employees or eligible dependents at the option of the participating small business, subject to the local initiative's continued offering of the pilot program.

SEC. 4. Section 131520 of the Health and Safety Code is amended to read:

131520. (a) Notwithstanding subdivision (b) of Section 1357, only an adult age 19 to 64 years, inclusive, employed by a small business for a minimum of 20 hours per week is eligible to participate in the program if he or she has a gross annual income that is less than 350 percent of the federal poverty level, and his or her employer participates in the program. Dependents, spouses, and domestic partners of employees are not eligible for the program, but may be covered by a complementary product.

(b) Notwithstanding subdivision (b) of Section 1357, a complementary product may contain eligibility requirements that apply only to the spouse, domestic partner, or dependent children of the program enrollee.

(c) Complementary products are exempt from the uniform participation requirements of subdivision (b) of Section 1357.03.

SEC. 5. Section 131521 of the Health and Safety Code is amended to read:

131521. (a) A small business may apply to the local initiative that administers the program to obtain coverage for its employees who meet the requirements of Section 131520.

(b) At least 50 percent of the eligible employees must choose to receive coverage through the program in order for the small business to qualify to participate in the program. A person covered by a complementary product is not an eligible employee for purposes of this section.

SEC. 6. Section 131532 is added to the Health and Safety Code, to read:

131532. The health care services offered in a complementary product shall be similar to those in the employee product, however, the discounted rate may be, but is not required to be, the same as that offered in the program.

SEC. 7. Section 131540 of the Health and Safety Code is amended to read:

131540. (a) (1) The cost of the health care coverage provided through the program shall be paid through a combination of contributions paid by the participating small businesses, premiums paid by participating employees, and any additional local funds available for the program. Complementary products shall be paid for by the individuals receiving benefits through the complementary products. Employer contributions for the complementary products are optional. No federal or state funds shall be used to contribute to the payment for complementary products.

(2) The local initiative may determine the amount of the employer contribution for each participating eligible employee, which shall not exceed one hundred fifty dollars (\$150) per month, and the amount of the employee premium, which shall not exceed seventy-five dollars (\$75) per month. The local initiative may adjust employer contribution and employee premium levels after the first year if necessary for changes in health care costs.

(3) The local initiative may structure the required employee premium amounts according to a schedule that takes into account the individual employee's age or income level, or both.

(4) For purposes of the program, the term "applicable rate charged for a covered employee" in Section 1366.26 shall mean the total premium amount paid to the health plan on behalf of an employee, including amounts paid by the small business on behalf of the employee, the premium paid by the employee, and any local funding, which funding shall include the value of the hospital-based services provided to enrollees in the program, as apportioned to the employee. The program shall submit to the Department of Managed Health Care the procedures the local initiative will use for purposes of establishing the rates to be paid by a person eligible for continuation coverage under Section 1366.26, and the department shall only approve those procedures if it determines that they are consistent with the requirements of the Cal-COBRA program.

(b) In order to enhance the affordability of coverage offered through the program to eligible small businesses and employees, the county and the local initiative shall negotiate discounted rates for services provided to participants in the program by providers

operated by the county or by providers with whom, or with which, the county has contracted to provide health care services.

(c) This section shall not apply to complementary products.

SEC. 8. Section 131542 is added to the Health and Safety Code, to read:

131542. Notwithstanding any other provision of law, no General Fund moneys shall be used for purposes of funding the program or related complementary products.

Approved _____, 2009

Governor